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bar the complainant has failed to establish a concluded contract between the parties. The evidence shows a contract executed by a committee of directors, which was subject to ratification by the stockholders who rejected it.

2. CORPORATIONS—*Liquidation—Power of directors—Purchase of stock.* After the stockholders of a corporation have taken the necessary steps to effect the dissolution of a corporation and are endeavoring to liquidate its indebtedness, the functions of the board of directors are in effect suspended. They cannot purchase for the company the stock of one of its shareholders who has full knowledge of all the facts with its property at a price which will create inequality amongst the stockholders. Such an act would be a fraud on the other stockholders.

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BRISTOL IRON & STEEL CO. v. CALDWELL, TRUSTEE, AND OTHERS.—

Decided at Wytheville, July 22, 1897.—*Harrison, J.*

1. CHANCERY PRACTICE—*Decrees to sell land—Amounts and priorities of liens.* It is error to decree a sale of real estate to pay liens thereon until the amounts and relative priorities of such liens have been first ascertained.

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COMBS v. COMMONWEALTH.—Decided at Wytheville, July 22, 1897.

*Keith, P.*

1. MISDEMEANORS—*Appeals from justices—When taken.* Appeals from the decisions of justices of the peace in misdemeanor cases must be taken at the time of the rendition of the judgment appealed from. They cannot be taken afterwards.

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KIMBALL & FINK, RECEIVERS OF THE NORFOLK & WESTERN RAILROAD CO. v. GEORGE L. CARTER.—Decided at Wytheville, July 22, 1897.—

*Keith, P.*

1. BILLS OF EXCEPTION—*Failure to point out objections—Failure to give answers to questions objected to.* The Court of Appeals will not consider bills of exception which do not point out specifically the objectionable ruling of the trial court. Nor will it consider objections to questions propounded to a witness which he is allowed to answer unless the answers are given. The court cannot determine the relevancy or value of the evidence in the absence of such answers.

2. RAILROADS—*Enclosed lands—What constitutes enclosures.* Enclosed lands within the meaning of the statute requiring railroads to fence their roadbeds are lands surrounded by a fence, and a fence is a visible or tangible obstruction which may be a hedge, ditch, wall, or a frame of wood, or any line of obstacle interposed between two portions of land so as to part off and shut in the land and set it off as private property. The fence need not be a lawful fence.

3. RAILROADS—*Enclosures—Ditch part of way.* The statute requires railroad companies to fence their entire right of way throughout the enclosure through which it passes. A ditch, though sufficient to prevent the passage of stock, does not answer the requirement of the statute unless it extends the entire length of such enclosure.

4. RAILROADS—*Enclosed lands—Several tracts constituting one boundary.* If the lessee from different owners of several tracts of land, constituting one boundary, has an enclosure around the entire boundary, then the lands are enclosed within

the meaning of the statute requiring railroads to fence their right of way and it is immaterial what changes are made by him in the fences separating the several tracts.

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MCDONALD'S ADMR. V. NORFOLK & WESTERN RAILROAD CO.—Decided at Wytheville, July 22, 1897.—*Riely, J* :

1. MASTER AND SERVANT—*Safe machinery—Dangers assumed by servants.* It is the duty of the master to use ordinary care and diligence to provide reasonably safe and suitable machinery and appliances for the use of the servant. The servant assumes all the ordinary risks of the service. He assumes, as a rule, all risks arising from causes known to him, or which are open and obvious, and must use reasonable care and caution for his own safety. If machinery and appliances are defective or unsuitable, and this fact is known to the servant, and he remains in the service and continues to use them without giving notice thereof to the master, or without any promise from the master to render the same less dangerous, he will be taken to have assumed the risk of all danger to be reasonably apprehended from their use, and is bound to use the care and caution which the situation demands.

2. MASTER AND SERVANT—*Brakeman—Mismatched couplings—Known dangers—Personal injuries.* A brakeman on a passenger train cannot recover of the company damages for a personal injury inflicted on him resulting from the use of mismatched couplers, where it appears that at the time of entering the service he knew of such use and of the danger of coupling cars with them, and continued in the service for a year thereafter without remonstrance or notice to the company, or promise on its part to make any changes, and where the danger was open and obvious, had he made the coupling in an unusual manner and different from that in which he was instructed. Nor will the use of other dangerous appliances equally obvious and open, and known to the brakeman, render the company liable, when he has been negligent in the use of them.

3. MASTER AND SERVANT—*Safety of servant—Duty of master.* An instruction which implies that extraordinary care is required of a master to provide for the safety of the servant should be refused. The law only requires ordinary care and diligence, and such an instruction is calculated to mislead the jury.

4. INSTRUCTIONS—*Jury sufficiently instructed—Other instructions.* Where instructions already given by the court cover the entire case and properly submit it to the determination of the jury, it is not error to refuse other instructions tendered which would not furnish any additional aid to the jury in reaching a proper verdict.

5. FELLOW-SERVANTS—*Engineer and brakeman.* The engineer and brakeman on the same train are fellow-servants.